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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------|---------------------|------------------|
| 10/602,984  | 06/24/2003  | Henri-Nicolas Olivier | 28944/40071         | 2033             |
| 29471   | 7590        | 06/20/2005            | EXAMINER            |                  |
| MCCRACKEN & FRANK LLP<br>200 W. ADAMS STREET<br>SUITE 2150<br>CHICAGO, IL 60606 |             |                       | MEHRPOUR, NAGHMEH   |                  |
|   |             |                       | ART UNIT            | PAPER NUMBER     |
|   |             |                       | 2686                |                  |

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/602,984             | OLIVIER ET AL.      |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Naghmeh Mehrpour       | 2686                |

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/15/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

**Information Disclosure Statement**

2. The information disclosure statement filed reference listed in the information Disclosure Submitted on 09/15/03 have been considered by the examiner (see attached PTO-1449

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 6-7, 11, 13, are rejected under 35 U.S.C. 102(e) as being anticipated by Oliver et al.(US publication 2004/0127189 A1).

Regarding claim 1, the admitted prior art/publication teaches a portable radiotelephone comprising least central processing unit (page 1 section 0003), transmit and receive radio circuit connected to at least one antenna, microphone, front face where speaker emerges (page 1 section 0006), - an upper section substantially perpendicular the front face (page 1 section 0006), keypad

that comprises at least one multifunction key and necklace designed for placing around the neck of the user (page 1 section 0008), the said necklace being fixed to the portable radiotelephone such a way that the said portable radiotelephone positions itself automatically by gravity with its microphone emerging above the speaker , the central processing unit being adapted to: receiving incoming call, establish bidirectional communication when user presses the multifunction key (page 1 section 0009), - and when the user presses the multifunction key when there incoming call, least one predetermined telephone address, wherein the microphone emerges upwards the upper section of the radiotelephone, and the radiotelephone is capable of being used without being moved when is worn around the neck of the user (page 1 section 0012).

Regarding claim 2, the admitted prior art teaches a radiotelephone according to Claim 1, which the central processing unit is adapted to sequentially and cyclically call several telephone addresses belonging a predetermined list, until a communication established with one of these telephone addresses, when the user presses the multifunction key when there is no incoming call (page section 0012).

Regarding claim 6, the admitted prior art teaches a radiotelephone according claim 1, which the front face includes the multifunction key, the keypad not including any other key arranged on the said front face (page 1 sections 0006, 0008)

Regarding claim 7, the admitted prior art teaches a radiotelephone according to Claim additionally comprising a rear face, on the side opposite the front face, this rear face comprising

additional keys belonging the keypad, which additional keys designed to allow a user to dial a telephone number of his choice (page 1 sections 0002-0012).

Regarding claim 11, the admitted prior art teaches a radiotelephone according claim which the central processing adapted transmit predetermined identification signal when a communication is being established with the said least on e predetermined telephone address when the user presses the multifunction key when there no incoming call (page 1 section 0012).

Regarding claim 13, the admitted prior art inherently teaches radio communication system comprising portable radiotelephone according to claim and base station connected public network and communicating wireless link with the said portable radiotelephone (page 1 section 0012).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 8, is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art/Olivier Publication Number 2004/0127189 A1).

Regarding claim 8, the admitted prior art fails to teach a radiotelephone according to claim 1, taking the form of a medallion. However, the examiner takes official notice that a radiotelephone taking the form of a medallion is well known in the art. Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of the admitted prior art, in order to provide different variety and shapes for the cellular phone users.

7. Claims 3-5, are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art/Olivier Publication Number 2004/0127189 A1) in view of Malik (US patent 6,574,324 B1).

Regarding claim 3, the admitted prior art fails to teach portable radiotelephone according to Claim which central processing unit adapted automatically call back a telephone address of the said predetermined list when the central processing called this telephone address after operation of multifunction key and when this telephone address was busy. However, Malik teaches portable radiotelephone which central processing unit adapted automatically call back a telephone address of the said predetermined list when the central processing called this telephone address after operation of multifunction key and when this telephone address was busy (col 2 lines 24-59). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Malik with the admitted prior art, in order to enable the user not pay the additional surcharges normally associated with traditional collect calling services.

Regarding claim 4, the admitted prior art modified by Malik does not specifically mention that the radiotelephone which the predetermined list of telephone addresses comprises number of telephone addresses the central processing unit is adapted to call a telephone address of position  $k$  the said list when the user presses the multifunction key  $p$  times, where  $p=k$  module. However, a radiotelephone which the predetermined list of telephone addresses comprises number of telephone addresses the central processing unit is adapted to call a telephone address of position  $k$  the said list when the user presses the multifunction key  $p$  times, where  $p=k$  module, is well known in the art. Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of the admitted prior art modified by Malik, in order to enable the user not pay the additional surcharges normally associated with traditional collect calling services.

Regarding claim 5, the admitted prior art fails to teach a radiotelephone according claim which the central processing adapted interrupt an established communication or an in-progress call when the user presses the multifunction key for a duration greater than predetermined duration, the said predetermined duration being at least equal. However, Malik teaches a radiotelephone according claim which the central processing adapted interrupt an established communication or an in-progress call when the user presses the multifunction key for a duration greater than predetermined duration, the said predetermined duration being at least equal (col 2 lines 47-567, col 3 lines 1-60). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Malik with the admitted prior art, in order

to enable the user not pay the additional surcharges normally associated with traditional collect calling services.

8. Claim 9, is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art/Olivier Publication Number 2004/0127189 A1) in view of Mauney et al. (US publication 2005/0032475 A1).

Regarding claim 9, the admitted prior art fails to teach a radiotelephone according to claim 1, which the central processing unit is adapted recognize least certain incoming calls, referred as telemonitoring calls, from at least one predetermined telephone address, and when the central processing identifies a telemonitoring call, automatically establish communication with this predetermined telephone address without notifying the user. However, Manuney teaches a radiotelephone according to claim 1, which the central processing unit is adapted recognize least certain incoming calls, referred as telemonitoring calls, from at least one predetermined telephone address, and when the central processing identifies a telemonitoring call, automatically establish communication with this predetermined telephone address without notifying the user (page 15 table 1, page 28 section 0352). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Mauney with the admitted prior art, in order to permit handsets and other objects exchange information by wireless transmission.

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9. Claim 10, is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art/Olivier Publication Number 2004/0127189 A1) in view of Cronin et al. (US patent 5,995,589).

Regarding claim 10, the admitted prior art fails to teach a radiotelephone according to Claim central processing unit adapted in which the activate the microphone and keep the speaker deactivated when the said central processing unit automatically activates communication after a telemonitoring call. However, Cronin teaches a radiotelephone according to Claim central processing unit adapted in which the activate the microphone and keep the speaker deactivated when the said central processing unit automatically activates communication after a telemonitoring call (col 2 lines 32-51).Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Wood with the admitted prior art, in order to provide useful apparatus which let the user know when the battery should be recharged.

10. Claims 12, 14-15, are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art/Olivier publication Number 2004/0127189 A1) in view of Woods et al. (US publication 2003/0114899 A1).

Regarding claim 12, the admitted prior art fails to teach a radiotelephone according to claim comprising an independent electrical power source and in which the central processing unit is adapted measure charge level the said power source and to send a warning message to a

predetermined address when the charge level. However, Woods teaches a radiotelephone according to claim comprising an independent electrical power source and in which the central processing unit is adapted measure charge level the said power source and to send a warning message to a predetermined address when the charge level falls below a predefined level (page section 0019). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Wood with the admitted prior art, in order to provide useful apparatus which let the user know when the battery should be recharged.

Regarding claim 14, the admitted prior fails to teach a radio communication system according to Claim which the portable radiotelephone includes an independent electrical power source and the central processing the radiotelephone adapted measure charge level of the said power source and communicate the charge level to the base station, the base station being designed memorize the said charge level and transmit a predetermined telephone address. However, Woods a radio communication system according to Claim which the portable radiotelephone includes an independent electrical power source and the central processing the radiotelephone adapted measure charge level of the said power source and communicate the charge level to the base station, the base station being designed memorize the said charge level and transmit a predetermined telephone address (page section 0019). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Wood with the admitted prior art, in order to provide useful apparatus which let the user know when the battery should be recharged.

Regarding claim 15, the admitted prior fails to teach a radio communication system according to Claim 13, which the base station is designed memorize periods during which stops being in communication with portable radiotelephone, and to communicate these periods to a predetermined telephone address. However, Woods teaches a radio communication system which the base station is designed memorize periods during which stops being in communication with portable radiotelephone, and to communicate these periods to a predetermined telephone address. Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Wood with the admitted prior art, in order to provide useful apparatus which let the user know when the battery should be recharged.

### **Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Shurman et al.** (US Patent 6,091,832) disclose wearable personal audio loop apparatus  
**Wang et al.** (US Patent 5,757,929) disclose audio interface garment and communication system for use therewith

**Quintana et al.** (US Publication 2002/0074370 A1) disclose apparatus and method for using a wearable computer testing and diagnostic applications

**Healtly** (US Publication 2003/0040298 A1) disclose mobile telephone with pager mode

12. **Any responses to this action should be mailed to:**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naghmeh Mehrpour whose telephone number is 571-272-7913. The examiner can normally be reached on 8:00- 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold be reached (571) 272-7905.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NM

June 13, 2005



MELODY MEHRPOUR  
PATENT EXAMINER